

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KENNETH D. DOTSON,
Plaintiff,

Case No. 2:12-CV-00486-AA

OPINION AND ORDER

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,
Defendant.

Aiken, Chief Judge:

Plaintiff brings this proceeding to obtain judicial review of the Commissioner's final decision denying plaintiff's application for disability insurance benefits. See 42 U.S.C. § 405(g).

Plaintiff alleges disability since February 28, 2008, due to physical impairments resulting from migraines and regarding his hands, neck, and back. Tr. 37, 255. His application was denied initially and on reconsideration. After hearings at which plaintiff

and vocational experts testified, tr. 14-30, 50-90, the administrative law judge (ALJ) issued a decision finding that plaintiff was not disabled within the meaning of the Social Security Act. Tr. 34-44.

Plaintiff asserts that the ALJ erred by: 1) failing to credit the opinions of a treating physician; and 2) rejecting plaintiff's testimony. I find no error.

First, I do not find that the ALJ improperly rejected the opinion of plaintiff's treating physician. Notably, the ALJ accepted several statements of the physician, Dr. Sandefur, in assessing plaintiff's residual functional capacity and rejected the assessment of an examining physician who found no basis for functional limitations. Tr. 40-41. Plaintiff appears to challenge the fact that the ALJ gave "almost no weight to Dr. Sandefur's medical source statement from September 2010." Tr. 41, 644-48. Plaintiff specifically objects to the ALJ's rejection of Dr. Sandefur's opinion that plaintiff cannot lift more than ten pounds. Tr. 645. The ALJ found that the 2010 opinion was inconsistent with plaintiff's demonstrated abilities and based on plaintiff's subjective reports, which were deemed not credible. Tr. 41. The ALJ further noted that Dr. Sandefur's 2010 opinion "appeared to be more restrictive than his previous opinions, even though he repeatedly described the claimant's conditions as stable or improved." Tr. 41.

I find that the ALJ's findings regarding Dr. Sandefur's 2010

opinion are clear, convincing, and supported by the record, particularly in light of other medical evidence supporting plaintiff's ability to lift more than ten pounds and the nature of his daily activities. Tr. 41-42, 750-51, 763-64; Morgan v. Comm'r of Soc. Sec. Admin., 169 F.3d 595, 599-600, 602 (9th Cir. 1999). Further, the ALJ provided a thorough discussion of the medical evidence and his findings, and a differing interpretation of the evidence cannot support reversal. Batson v. Comm'r Soc. Sec. Admin., 359 F.3d 1190, 1197-98 (9th Cir. 2004).

Second, the ALJ provided clear and convincing reasons to support his finding that plaintiff's testimony was not wholly credible. Carmickle v. Comm'r, Soc. Sec. Admin., 533 F.3d 1155, 1160 (9th Cir. 2008). The ALJ noted that an examining physician found that plaintiff's "presentation was inconsistent during testing, he provided an inaccurate medical history, and he demonstrated pain behaviors incongruent with his underlying impairments." Tr. 42, 745-46. The ALJ further noted that plaintiff reported varying descriptions of his head injury, and that his daily activities, including household chores, photography, and a five-mile hike, conflicted with the degree of disability he alleged. Tr. 42, 267, 269, 387, 662. These reasons are legally sufficient to support the ALJ's adverse credibility finding.

///

///

CONCLUSION

The ALJ's findings are supported by substantive evidence in the record, and the decision of the Commissioner is AFFIRMED.

IT IS SO ORDERED.

DATED this 1ST day of Aug, 2013.



Ann Aiken
United States District Judge